

**Remarks**

Claims 1-3, 5-11, 13, 15, 17, 19-23 and 25-30 are pending. Claims 4, 12, 14, 16, 18 and 24 has been cancelled without prejudice. Applicants reserve the right to pursue the subject matter of any of the canceled claims in one or more divisional, continuation, or continuation-in-part applications.

Claims 1, 13, 21 and 22 have been amended. Support for the claims can be found in the instant specification and the claims as originally filed thus no new matter has been added.

**Rejection Under §112**

Claims 1-11, 13, 15, 17, 19-23 and 25-30 have been rejected under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the written description requirement. Applicant respectfully disagrees.

The Examiner contends that the instant specification does not sufficiently describe homologs of promoter YMR325W. Solely in order to further prosecution, the claims have been amended to remove the term homolog.

In view of the foregoing, Applicant respectfully requests withdrawal of the rejection under §112.

**Rejection Under §102**

Claim 1-3, 5-9, 13, 15, 17, 19, 21, 23, 25 and 28-30 have been rejected under 35 U.S.C. §102(e) as being anticipated by US Patent 6,828,092 (hereafter "Dixon"). Applicant respectfully disagrees.

Dixon teaches a method for the identification of agents which modulate sterol biosynthesis comprising contacting host cells with a reporter under the control of acetoacetyl CoA thiolase gene promoter with test compounds. The Examiner contends that the acetoacetyl CoA thiolase gene promoter is equivalent to a YMR325W homolog. Solely in order to further prosecution, the claims have been amended to remove the term homolog.

In view of the foregoing, Applicant respectfully requests withdrawal of the rejection under §102.

### **Conclusion**

It is believed that the claims now pending are in condition for allowance. Early and favorable action by the Examiner is earnestly requested.

**Authorization**

No fee is believed to be due. However, the Commissioner is hereby authorized to charge any fees which may be required for consideration of this Amendment to deposit account 13-2755.

Respectfully submitted,

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